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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,769	03/30/2004	Nancy J. Hoffman	P/149-1	4958

7590 07/26/2005

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EXAMINER

TSIDULKO, MARK

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/812,769

Applicant(s)

HOFFMAN ET AL

Examiner

Mark Tsidulko

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The informal drawings are not of sufficient quality to permit examination. The drawings of the instant application represent dark spots and do not obtain satisfactory reproduction characteristics. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Applicant is given a TWO MONTH time period to submit new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a). Failure to timely submit replacement drawing sheets will result in ABANDONMENT of the application.

### *Specification*

The Abstract of the disclosure is objected to because of using claim language: "**comprising**" should be changed to "**having**".

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiener (US 3,792,685) in view of Hagel (US 2003/0159660).

Referring to Claim 1 Wiener discloses (Fig.1) a birdhouse including a clear block fixture composed of transparent walls [8] and [13] (col.4, lines 60-66) and a roof [9].

Wiener discloses the instant claimed invention except for a light source.

Hagel discloses (Fig.6) an animal house having a light source inside for illuminating an interior of the housing (Abstract).

Referring to Claim 2, since Wiener does not disclose that the light source is place in the block fixture through the back side, it is understood, that any desired side of the block may be use for placing the light source, what is a matter of design choice, because does not change functionality of the device.

Referring to Claim 3 Wiener discloses (Fig.1) a gable shaped roof.

Referring to Claim 4, since the walls are transparent (col.4, lines 60-66 of Wiener), the material of the wall inherently is a glass or a clear plastic.

Referring to Claim 5 Wiener discloses (Fig.1) a rectangle shape of the block fixture.

Referring to Claim 10 it is understood, that any light source known in the art may be used for the device.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the a light source, as taught by Hagel, inside the housing of Wiener, for the purpose of illuminating the interior of the housing.

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Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiener and Hagel as applied to claim 1 above, and further in view of Ruggles (US 6,789,916).

Wiener et al. discloses the instant claimed invention except for floral accent attaché to the platform.

Ruggles discloses (Figs.1 and 13) a birdhouse [40] (Fig.13) having a platform [20] (Fig.1) and floral accent attached to the platform (Fig.1).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the floral accent, as taught by Ruggles, for the device of Wiener et al. for the purpose of the decorative appearance.

Claims 7-9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiener and Hagel as applied to claim 1 above, and further in view of Niskanen et al. (US 5,762,025).

Referring to Claim 7 Wiener et al. discloses the instant claimed invention except for a figure of a bird on top of the roof.

Niskanen et al. disclose (Fig.8) a birdhouse having a figure of the bird located on the top of the roof.

Referring to Claims 8, 9 Wiener et al. discloses the instant claimed invention except for a painted or stained wood roof.

Niskanen et al. disclose a birdhouse having a painted (col.2, lines 62-64) wood roof (col.2, line 35).

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It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the figure of a bird on the top of the roof, as taught by Niskanen et al., for the device of Wiener et al. for the purpose of decorative appearance.

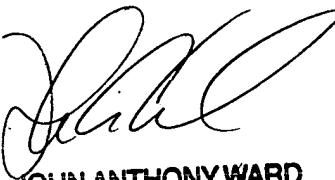
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.  
May 26, 2005



JOHN ANTHONY WARD  
PRIMARY EXAMINER